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In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.42 of 2006

K. Moorthy .. Petitioner

vs.

1. State of Tamil Nadu
   rep. by its Secretary
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The District Magistrate &
   District Collector
   Cuddalore & District. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr. S. Sathiachandran
For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name K. Moorthy, challenges the impugned order of detention dated 10.10.2005, detaining his elder brother K. Siva, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

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2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated 10.10.2005/19.10.2005 was received by the Government on 11.11.2005 and remarks were called on 14.11.2005, remarks were received on 05.12.2005. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 06.12.2005; order was passed by the Minister for Prohibition and Excise on 07.12.2005, rejection letter was prepared on 08.12.2005; the same was sent to the detenu on 16.12.2005 and the rejection letter was served on the detenu on the same day i.e., on 16.12.2005. As rightly pointed out though the concerned Minister has passed an order on 07.12.2005, there is no explanation or reason for not forwarding the same to the detenu till 16.12.2005. In the absence of any explanation, we hold that the delay between 07.12.2005 and 16.12.2005 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Kh

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1. The Secretary to Government
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

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2. The District Magistrate &
   District Collector
   Cuddalore & District.

3. The Director General of Police
   Chennai 4.

4. The Superintendent
   Central Prison, Cuddalore.

5. The Public Prosecutor
   High Court, Madras.

6. The Inspector General of Prison,
   No.8, Ormes Road, Chennai-10.

7. The Deputy Inspector of General of Police,
   Villupuram Range, Villupuram.

+ 1 CC To Mr.S.Sathia Chandran, Advocate, SR NO.19274.

Order in
H.C.P.No.42 of 2006

SGL(CO)
RVL 24.04.2006

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